

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850

[www.montgomerycountymd.gov/content/council/boa/index.asp](http://www.montgomerycountymd.gov/content/council/boa/index.asp)

(240) 777-6600

**Case No. S-2806**

**PETITION OF DANIEL B. JESSOP**

OPINION OF THE BOARD

(Opinion Adopted September 14, 2011)

(Effective Date of Opinion: September 29, 2011)

Case No. S-2806 is an application under Section 59-G-2.00 of the Zoning Ordinance, to allow an accessory apartment. The subject property is Lot 20, Block 18, 7800 Cole Avenue, Takoma Park, Maryland 20912 in the R-60 Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on July 8, 2011, closed the record in the case on July 18, 2011 and on July 27, 2011 issued a report and recommendation for approval of the application.

Decision of the Board:                      Special Exception **Granted** Subject to  
The Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on September 14, 2011. After careful consideration and review of the record, the Board adopts the Report and Recommendation and grants the special exception subject to the conditions enumerated below:

1. The Petitioner is bound by his testimony, representations and exhibits of record, to the extent that such testimony and evidence are identified in the Hearing Examiner's Report and Recommendation and in this Opinion;
2. The Petitioner must complete repairs to comply with the conditions set forth in the Memorandum of Kevin M. Martel, Program Manager II, Division of Housing and Code Enforcement (Exhibit 15). These conditions require Petitioner to install egress windows in both cellar bedrooms to meet the County Code, including a 5.0 square feet net clear opening;

3. Based on habitable space in the apartment (422 square feet), no more than two unrelated persons or a family of up to three may reside in the accessory apartment;
4. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located;
5. Petitioner must not receive compensation for occupancy of more than one dwelling unit; and
6. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by Stanley B. Boyd, seconded by Carolyn J. Shawaker, with Walter S. Booth, David K. Perdue, Vice-Chair, and Catherine G. Titus, Chair, in agreement, the Board adopted the following Resolution:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

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Catherine G. Titus  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 29<sup>th</sup> day of September, 2011.

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Katherine Freeman  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.